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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,446	02/13/2004	Hoon Kim	5000-1-522	8979
33942	7590	11/14/2007		
CHA & REITER, LLC 210 ROUTE 4 EAST STE 103 PARAMUS, NJ 07652			EXAMINER LI, SHI K	
			ART UNIT 2613	PAPER NUMBER
			MAIL DATE 11/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

58

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/779,446	KIM ET AL.	
	Examiner	Art Unit	
	Shi K. Li	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1 November 2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admission (admitted prior art) in view of Kamalov et al. (U.S. Patent 7,149,424 B2).

Regarding claims 1 and 14, Admission (FIG. 1 - prior art) teaches a passive optical network comprising a plurality of optical network units 100, each unit having an assigned code (PN codes 1 through N) and a central office 200. The difference between Admission and the claimed invention is that Admission does not teach using error correction codes. Kamalov et al. teaches in FIG. 1 a passive optical network. Kamalov et al. teaches in FIG. 2 to use forward error correction (FEC) codes for transmission such that the receiving end can use the FEC for determining bit-error rate and feedback the bit error rate to the transmitting end for adjusting signal parameters such as signal wavelength. One of ordinary skill in the art would have been motivated to combine the teaching of Kamalov et al. with the passive optical system of Admission because using FEC and bit-error rate feedback improves transmission quality and is inexpensive. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to use FEC and bit-error rate feedback for improving transmission quality, as taught by Kamalov et al., in the passive optical system of Admission because the method is inexpensive.

Regarding claim 2, Admission teaches a code division multiple access (CDMA) optical network.

Regarding claim 3, Kamalov et al. teaches adjusting signal parameter based on bit error rate.

Regarding claim 4, Admission teaches pseudo-noise (PN) code.

Regarding claim 5, Admission teaches upstream and downstream signals.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Admission and Kamalov et al. as applied to claims 1-5 and 14 above, and further in view of Ahn et al. (B. Ahn et al., "A Symmetric-Structure CDMA-PON System and Its Implementation", IEEE Photonics Technology Letters, Vol. 14, No. 9, September 2002).

Admission and Kamalov et al. have been discussed above in regard to claims 1-5 and 14. The difference between Admission and Kamalov et al. and the claimed invention is that Admission and Kamalov et al. do not teach multiplexer for combining error count and data. However, it is well known in the art that many signal streams can be combined using multiplexing techniques. For example, Ahn et al. teaches in FIG. 1 a CDMA-PON system. Ahn et al. teaches in FIG. 4 multiplexing scheme for feeding back information from the receiver to the transmitter for adjusting transmitter parameter. One of ordinary skill in the art would have been motivated to combine the teaching of Ahn et al. with the modified passive optical network of Admission and Kamalov et al. because using multiplexing technique eliminates the need for a dedicated communication link for feedback and especially suitable for bi-directional communication systems. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to multiplex feedback information with data signal using a multiplex, as taught by Ahn et al., in the modified passive optical network of Admission and Kamalov et al. because using multiplexing technique eliminates the need for a dedicated

communication link for feedback and especially suitable for bi-directional communication systems.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Admission, Kamalov et al. and Ahn et al. as applied to claim 6 above, and further in view of DeCusatis et al. (U.S. Patent 7,061,944 B2).

Admission, Kamalov et al. and Ahn et al. have been discussed above in regard to claim 6. The difference between Admission, Kamalov et al. and Ahn et al. and the claimed invention is that Admission, Kamalov et al. and Ahn et al. do not teach a bias controller for adjusting wavelength. DeCusatis et al. teaches in FIG. 1(b) a circuit for adjusting wavelength of laser diode 12 by adjusting the bias voltage 14. One of ordinary skill in the art would have been motivated to combine the teaching of DeCusatis et al. with the modified passive optical network of Admission, Kamalov et al. and Ahn et al. because controlling bias is a simple method comparing with other wavelength control method such as adjusting temperature (see FIG. 11 of DeCusatis et al.). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust wavelength by using a bias voltage controller, as taught by DeCusatis et al., in the modified passive optical network of Admission, Kamalov et al. and Ahn et al. because controlling bias is a simple method. The Examiner also recognizes that whether using bias controller or other method to adjust wavelength is merely amount to selection of expedients known to an artisan of ordinary skill as design choices.

5. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admission and Kamalov et al. as applied to claims 1-5 and 14 above, and further in view of Argon et al. (U.S. Patent 6,847,760 B2).

Admission and Kamalov et al. have been discussed above in regard to claims 1-5 and 14. The difference between Admission and Kamalov et al. and the claimed invention is that Admission and Kamalov et al. do not teach the particular coding scheme. Argon et al. teaches in col. 3, lines 62-67 that Reed-Solomon code, BCH code, LDPC code and turbo codes are well known FEC coding formats. The Examiner recognizes that it is obvious for one of ordinary skill in the art at the time the invention was made to choose any one of these coding formats as a design choice.

#### ***Response to Arguments***

6. Applicant's arguments filed 13 September 2007 have been fully considered but they are not persuasive.

The Applicant argues that there is no teaching, suggestion or motivation to combine the teachings of the APA and Kamalov, nor would the combination of recited elements in claim 1 have within the ordinary level of skill in the art. The Examiner disagrees.

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Kamalov et al. teaches in FIG. 2 to use forward error correction (FEC) codes for transmission such that the receiving end can use the FEC for determining bit-error rate and feedback the bit error rate to the transmitting end for adjusting signal parameters.

The Applicant argues that APA clearly teaches away from references using WDM. First, claimed invention does not recite any features about WDM. Therefore, APA does not teach away from claimed invention. Secondly, the rejection does not rely on WDM. The Examiner recognizes that FEC does not have to be used together with WDM. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number:  
10/779,446  
Art Unit: 2613

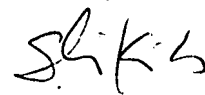
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shi K. Li whose telephone number is 571 272-3031. The examiner can normally be reached on Monday-Friday (7:30 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

skl  
12 November 2007



Shi K. Li  
Primary Patent Examiner